

# MAILERS COALITION FOR POSTAL REFORM

Advertising Mail Marketing Association  
American Express Company  
Direct Marketing Association  
Magazine Publishers of America  
Mail Order Association of America  
Parcel Shippers Association

April 8, 1998

The Honorable John M. McHugh  
Chairman  
Subcommittee on the Postal Service  
Committee on Government Reform and Oversight  
U.S. House of Representatives  
2441 Rayburn House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

The following is respectfully submitted by the Mailers Coalition for Postal Reform in response to your request for comments on H.R. 22, as revised by you on December 12, 1997. As you will note, the organizations that make up this Coalition-- the Advertising Mail Marketing Association (AMMA), American Express Company, the Direct Marketing Association (DMA), the Magazine Publishers of America (MPA), the Mail Order Association of America, and the Parcel Shippers Association--represent mailers that use all postal classes and services. We support your efforts to make postal reform a high priority. It would be very surprising indeed if, after a quarter of a century, the Postal Reorganization Act of 1970 did not need a comprehensive modernization and updating. We strongly endorse your efforts to provide for annual, below-inflation rate increases and greater flexibility for the Postal Service to price its products in a timely fashion in order to respond expeditiously to changing market conditions.

We have chosen to focus our comments on the provisions of Chapter X of H.R. 22, which pertain to setting postal rates, classes, and services. To the extent that our organizations wish to comment on additional matters concerning H.R. 22, we will do so separately.

## ON **THE** ESTABLISHMENT OF "BASKETS" OF POSTAL PRODUCTS AND SERVICES

We agree that all domestic postal products and services should be distinguished primarily as *noncompetitive* or *competitive*. Those that are *noncompetitive* would include products and services over which the U.S. Postal Service has either a *de jure* or a *de facto* monopoly. In the former instance, this would include products and services covered by the Postal Service's statutory monopoly over the carriage and delivery of letters. In the latter, it would include those products over which the Postal Service enjoys dominant control over their (e.g., the home delivery of weekly and monthly periodical publications such as magazines). *Competitive* products, on the other hand, would include those over which the Postal Service does not have statutory or dominant control of the distribution marketplace (e.g., overnight Express Mail, bulk Parcel Post, and others).

Postal products should be distinguished further by grouping them into one of five baskets.

Basket One would be limited to single-piece (nonpresorted) First-Class Mail, single-piece parcels, Priority Mail subject to the statutory monopoly, and Special Services.

Basket Two would consist of presorted First-Class Mail tendered in bulk.

Basket Three would consist of periodical publications.

Basket Four would consist of all Standard Mail, except for Standard (B) bulk parcels.

Basket Five would consist of Express Mail, Priority Mail not subject to the statutory monopoly, and bulk Parcel Post.

We believe these baskets satisfactorily reflect postal product line differences.

We recommend that international mail rates not be subject to Postal Regulatory Commission review. Maximum flexibility should be permitted to enable the Postal Service to meet the increasing competitive challenge presented by foreign postal administrations.

#### ON THE PRICING OF "NONCOMPETITIVE" PRODUCTS

We support the proposal to use the consumer price index (CPI) as the key component for determining a **postal pricing index** (PPI), which would be used for making subsequent adjustments to rates outside of a formal ratemaking proceeding. We also support a productivity offset to the CPI, which should be the same for all baskets; postal costs are joint and common, and differences in the offset would merely produce confusion among mailers.

In addition to a productivity offset, we believe there should be a "**consumer price dividend**" (CPD) offset, similar to that which has been used by the Federal Communications Commission (FCC) in its regulation of carriers. The CPD also should be the same for all baskets. If the Committee believes, however, that special price recognition should be made for Basket One, the PRC should be afforded the power to provide a different CPD for that basket.

We strongly agree that the Commission should be constrained to apply productivity and CPD offsets only to *reduce* rates, never to increase them. This will assure mailers below inflation rate increases, a widely accepted goal.

We recommend that *initial* rates following enactment of H.R. 22 be determined by a *baseline* case to establish rates against which inflationary adjustments will be applied. We strongly support H.R. 22's provision that current law factors be used in such a case with no contingency or prior year losses taken into account. In such a case, the PRC's decision could be accepted, rejected, or modified by the Board of Governors by a three-fourths vote. Any decision by the Governors would be subject to judicial review.

Immediately after the conclusion of the baseline case, the Postal Regulatory Commission should conduct an extensive and thorough *productivity and CPD offset* case to determine the objective standards and measurements for the **productivity-** and consumer dividend offsets that will be applied. In this case, the Postal Regulatory Commission would have final authority, but its decision would be subject to judicial review. We recommend that H.R. 22 require the Postal Regulatory Commission to review the authorized productivity and CPD offsets at least every five years through a notice-and-comment rulemaking.

While we believe the Postal Service *should* be allowed to adjust the rates assigned to "subordinate" rate elements (i.e., *rate categories*) within any basket within the range of plus or minus two percent, the average increase applied to

any subclass within that basket *must not exceed* the maximum price permitted by the postal pricing index (PPI). For new forms of worksharing, such a limit, however, is too restrictive. Instead, we urge the Committee to permit such adjustments up to, but no greater than, *six percentage points*. In those instances where the Postal Service would be seeking adjustments greater than six percent, the Postal Service should be required to submit such a proposal in a mail classification request filed before the Postal Regulatory Commission.

#### **ON THE PRICING OF "COMPETITIVE" PRODUCTS AND SERVICES**

We agree with H.R. 22 that competitive products and services (those proposed for Basket Five) should be subject to special procedures. The Postal Service *should* have the authority to set prices for such products as often as needed during any year and should be able to do so with a 30-day notice to mailers.

In order to assure that the Postal Service does not abuse its monopoly powers and standing by permitting non-competitive products to subsidize the prices assigned to competitive products, the prices charged for competitive products should be sufficient to recover incremental costs; and each year the average price for competitive products should be increased by an amount that is at least equal to the average annual rate increase assigned to all non-competitive baskets. We offer this provision as a replacement for the equal markup provisions in H.R. 22, which we believe would prove unworkable. There is no need for separate financial accounting for competitive products.

#### **CONCERNING THE DETERMINATION OF "COMPETITIVE" VERSUS "NONCOMPETITIVE" PRODUCTS.**

We recognize that as the nation's postal services and needs continue to evolve, there may be a time when the Postal Service, postal competitors, or postal customers may wish to have a specific postal service reclassified as either competitive or noncompetitive. In such instances, we believe the Postal Regulatory Commission should be empowered to make such a determination through notice-and-comment rulemaking. The determination of postal products and services -- other than those covered by the postal monopoly -- as *noncompetitive* or *competitive* should be based primarily on whether the U.S. Postal Service has *de facto* control over the product's distribution. Any decision by the Commission would be subject to judicial review.

#### **CONCERNING NON-POSTAL PRODUCTS AND SERVICES**

We believe that the Postal Service should restrict its activities to those that pertain to the business of collecting, processing, distributing, and delivering mail. To the extent that any new non-postal products are provided by the Postal Service, a separate private corporation or other mechanism is appropriate. The funding for this corporation, however, should not come from general Postal Service revenues.

#### **CONCERNING THE COLLECTION AND REPORTING OF COST DATA**

The Postal Service should be required to continue to maintain, publish, and report (to the PRC) cost data for each class and subclass in accordance with the existing accounting criteria. The Postal Service should also provide to the PRC incremental cost data for each subclass. Upon request of the Postal Service or of any third party (but not on its own motion), the PRC should be authorized to initiate rulemaking proceedings, under the Administrative Procedure Act, looking toward changes in the cost accounting methodologies the Postal Service has used. In such a proceeding, the PRC's decision could be accepted, rejected, or modified by the Governors of the Postal Service by a three-fourths vote, subject to judicial review.

#### CONCERNING "SPECIAL" FINANCIAL CIRCUMSTANCES

We believe that certain financial circumstances require special treatment by H.R. 22. Whenever the Postal Service faces a severe financial exigency and additional revenue is needed, the Postal Service should be permitted to address this financial need through an *exigent rate case* filed with the Postal Regulatory Commission.

We recommend that the Postal Service be allowed to file an exigent rate case if system-wide costs exceeded revenues by at least three percentage points in any year. In that event, the Service may ask the PRC to re-examine the baseline costs and the productivity and CPD offsets in effect at that time. In such a case, the **PRC's** decision could be accepted, rejected, or modified by the Board of Governors by a three-fourths vote, subject to judicial review.

We also recognize that unforeseen increases in costs *could* result from events that are beyond the Postal Service's control, due, for example, to legislative, executive, or judicial action. In such instances, where these unforeseen costs exceed the maximum permissible PPI-based rate increases, the Postal Service should be permitted to petition the Postal Regulatory Commission for waiver of the PPI cap. The PRC would be authorized to waive the cap and permit a *one-time* adjustment that would be passed through *uniformly* (e.g., by adding a percentage increase to each subclass rate) to all mail users.

Finally, we recognize that there may be instances when the rates assigned to a particular subclass may fail to recover incremental costs. In such cases, the Postal Service should be permitted to petition the PRC for a *waiver of the cap for that subclass* on a one-time adjustment basis. Where there is a failure to cover costs in a competitive class subclass, the Postal Service should raise rates to cover such costs.

#### CONCERNING THE EQUAL APPLICATION OF LAWS

We generally support H.R. 22's "level playing field" provisions. To the extent that it deems necessary, the Postal Service Board of Governors may authorize purchase of private insurance to protect individuals from anti-trust liability.

#### CONCERNING "NEGOTIATED SERVICE AGREEMENTS"

One of the concepts we consider most important to postal legislative reform is the ability of the Postal Service and its customers to arrive at *negotiated service agreements (NSAs)* that provide mutual benefit for mailers and the Postal Service. We must make clear that we do not consider negotiated service agreements volume-based discounts. Referring to "negotiated service agreements" as volume-based discounts, as some do, is an unfortunate (and mischievous) mischaracterization. **NSAs** are agreements between the USPS and one or more of its customers that call for a level of worksharing and cost-reducing, **productivity-improving** activities that go beyond those ordinarily required in the regular mail classification schedule.

An NSA of this sort can be of a prescribed, limited term (subject to renegotiation for renewal). It can contain provisions that call for the termination of the agreement by either party within specified periods of time, and can include mutually agreed upon penalties for failing to comply with the agreement. It can be made available to others on a non-discriminatory basis, as long as they can satisfy the terms of the agreement. It should be structured to ensure that rates provided to services rendered under this agreement are sufficient to recover incremental costs and make a unit contribution to institutional cost recovery that is equal to or greater than the contribution derived from otherwise similarly scheduled rates in the Domestic Mail Classification Schedule (DMCS). **NSAs** should be reasonably calculated to reduce total Postal Service accrued costs.

The rules governing NSAs should be determined through a formal rulemaking conducted by the Postal Regulatory Commission. These rules then would be applied to judge the legal sufficiency of subsequently negotiated agreements.

We feel strongly that restricting NSAs exclusively to *competitive* (non-monopoly] services is unnecessary and unjustified, particularly since *negotiated service agreements* already are often used in the determination of postage due accounts. These agreements characteristically are based on agreements to charge postage due using a weighted fee based on a periodic sampling of returned parcels of different weights and subclasses rather than assessing postage by weighing and rating each individual piece. NSAs are useful mechanisms for reducing postal costs in an efficient manner; they should be available for non-competitive products as well, which represent the vast portion of today's postal services.

#### CONCERNING "COMPLAINT" PROCEEDINGS

We believe that any postal reform legislation *must* provide users or competitors of the mail an appropriate avenue for the redress of any grievances concerning alleged abuse by the Postal Service of its regulatory discretion. Complaints, however, should be limited to allegations concerning: (1) failure to render services in accordance with service performance standards established by the Board of Governors of the Postal Service, (2) violation of pricing discretion within the bounds of the Postal Pricing Index, (3) charges of predatory pricing, and (4) charges of unreasonable discrimination relating to a negotiated service agreement. All such complaints should be resolved by the Postal Regulatory Commission within 90 days. In such cases, any decision by the Postal Regulatory Commission would be final, subject to judicial review.

#### CONCERNING THE ESTABLISHMENT AND AUDITING OF SERVICE STANDARDS

We recommend strongly that the Congress direct the Board of Governors of the U.S. Postal Service to establish, through notice-and-comment procedures, standards and measurements for all postal products and services. Once set, we believe that any future changes to either standards or measurements be subject to review by the Postal Regulatory Commission. In such instances, the Postal Regulatory Commission would have final authority to approve any changes in standards and measurement, subject to judicial review. We recommend further that all service performance measures and audits be conducted by an independent third party.

#### CONCERNING INTERNATIONAL REPRESENTATION ON POSTAL MATTERS

We believe that the U.S. Postal Service, not the U.S. Trade Representative, should represent the interests of the United States within the Universal Postal Union, which is an organization of postal authorities that determines costs and procedures between nations for the handling of international mail. The Postal Service also should continue to be responsible for all arrangements with foreign postal authorities for the transit and handling of international mail (including such services as *Global Package Link*). We believe further that the U.S. Trade Representative's role should be directed toward assisting commercial carriers, if requested and necessary, to achieve agreements (similar to the *Global Package Link* service) with foreign postal authorities.

#### CLOSING

We appreciate this opportunity to respond to your request for comments concerning proposed revisions to H.R. 22. The members of our coalition look forward to working with you to hasten the enactment of long-needed and progressive postal reform legislation.

Submitted in behalf of the:

Advertising Mail Marketing Association  
American Express Company  
Direct Marketing Association  
Magazine Publishers of America  
Mail Order Association of America  
Parcel Shippers Association